

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CIRBA INC. (d/b/a DENSIFY)  
and CIRBA IP, INC.,

*Plaintiffs,*

v.

VMWARE, INC.,

*Defendant.*

C.A. No. 19-742-LPS

~~PROPOSED~~ JUDGMENT

The Court orders entry of JUDGMENT based on the JURY VERDICT of January 24, 2020 (D.I. 549; Jan. 24, 2020 Trial Tr. at 1921:19-1925:5) ~~and the Court's rulings to date as follows:~~<sup>1</sup>

The Court enters judgment in favor of Cirba IP, Inc. ~~(d/b/a Densify) (collectively, "Densify")~~ ~~and Cirba Inc.~~ and against VMware, Inc. ("VMware") with respect to direct literal infringement of claims 3 and 7 of U.S. Patent No. 8,209,687 (the "'687 patent") under 35 U.S.C. § 271(a);

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ <sup>Densify</sup> and against VMware with respect to actively induced literal infringement of claims 3 and 7 of the '687 patent under 35 U.S.C. § 271(b);

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ <sup>Densify</sup> and against VMware with respect to willful infringement of claims 3 and 7 of the '687 patent;

~~The Court enters judgment in favor of Cirba IP [and Cirba Inc.] and against VMware with respect to the patent eligibility of claims 3 and 7 of the '687 patent under 35 U.S.C. § 101;~~

<sup>1</sup> This Judgment does not address or otherwise affect VMware's Counterclaims 1-4, filed August 20, 2019 (D.I. 150), which the Court severed (D.I. 194) and which remain pending.

~~Densify~~

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ and against VMware with respect to anticipation of claims 3 and 7 of the '687 patent under 35 U.S.C. §§ 102(a) and 102(b) by DRS 2006;

~~Densify~~

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ and against VMware with respect to the obviousness of claims 3 and 7 of the '687 patent under 35 U.S.C. § 103 based on DRS 2006;

~~Densify~~

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ and against VMware with respect to direct literal infringement of claims 1, 9, 13, and 17 of U.S. Patent No. 9,654,367 (the "'367 patent") under 35 U.S.C. § 271(a);

~~Densify~~

The Court enters judgment in favor of VMware and against ~~Cirba IP [and Cirba Inc.]~~ with respect to actively induced literal infringement of claims 1, 9, 13, and 17 of the '367 patent under 35 U.S.C. § 271(b);

~~Densify~~

The Court enters judgment in favor of ~~Cirba IP [and Cirba Inc.]~~ and against VMware with respect to willful infringement of claims 1, 9, 13, and 17 of the '367 patent;

~~Densify~~

The Court enters judgment in favor of VMware and against ~~Cirba Inc. (d/b/a Densify) and Cirba IP (collectively, "Densify")~~ with respect to liability for trademark infringement under the Lanham Act, Title 15 of the United States Code, including 15 U.S.C. § 1125(a), and state common law, and no associated damages;

The Court enters judgment in favor of VMware and against Densify with respect to liability under the Delaware Deceptive Trade Practices Act, Delaware Code Title 6, including Delaware Code Title 6 § 2532, and no associated damages;

The Court enters judgment in favor of Densify and against VMware for damages in the amount of \$235,724,765 for VMware's infringement of the '687 patent, subject to interest, fees, and costs that may subsequently be sought and/or awarded;

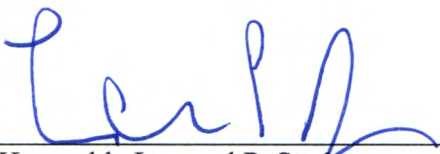
The Court enters judgment in favor of Densify and against VMware for damages in the amount of \$1,112,111 for VMware's direct infringement of the '367 patent under 35 U.S.C. § 271(a), subject to interest, fees, and costs that may subsequently be sought and/or awarded;

The parties expressly reserve their rights to appeal any and all adverse rulings, except for the dismissal of claims or defenses set forth in the Proposed Stipulation and Order of Dismissal with Prejudice.

This Judgment is subject to modification following the Court's consideration of the parties' post-trial motions and further to the Federal Rules of Civil Procedure and applicable law.

This Judgment is not a Final Judgment and instead serves to trigger the time for the filing of post-trial motions on issues under Rules 50(b) and 59(b) that were decided by the jury, as well as other post-trial matters, including any motion by Densify for motions for enhancement of damages, permanent injunction, post-verdict ongoing royalty, attorney's fees, pre-judgment interest, post-judgment interest or other relief.

Dated: February 10th, 2020

  
The Honorable Leonard P. Stark  
Chief Judge, United States District Court